

Senate Amendment 3316

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1 1 Amend Senate File 453 as follows:
1 2 #1. Page 37, by inserting after line 5 the
1 3 following:
1 4 1 5 ENERGY CONSERVATION
1 6 Sec. _____. NEW SECTION. 297A.1 STATE POLICY.
1 7 The general assembly finds that investment in
1 8 energy conservation measures by public facilities can
1 9 reduce the amount of energy consumed by the facilities
1 10 and produce both immediate and long-term cost savings.
1 11 It is the policy of this state to encourage school
1 12 districts, area education agencies, community
1 13 colleges, public universities, municipalities,
1 14 counties, and state institutions to invest in facility
1 15 technology infrastructure upgrades and energy
1 16 conservation measures that reduce energy consumption,
1 17 produce a cost savings, or improve the quality of
1 18 indoor air, or when economically feasible, to build,
1 19 operate, maintain, or renovate public facilities in a
1 20 manner which will minimize energy consumption or
1 21 maximize energy savings. It is additionally the
1 22 policy of this state to encourage reinvestment of
1 23 energy savings resulting from energy conservation
1 24 measures into additional and continued energy
1 25 conservation efforts, including but not limited to
1 26 school instructional computer hardware, software, and
1 27 other technology equipment or training needs to
1 28 maintain or operate technology systems. The
1 29 department of natural resources, in consultation with
1 30 the department of education, shall adopt rules
1 31 pursuant to chapter 17A for the administration of
1 32 sections 297A.2, 297A.3, and 297A.4.
1 33 Sec. _____. NEW SECTION. 297A.2 DEFINITIONS.
1 34 As used in this chapter, unless the context
1 35 otherwise requires:
1 36 1. "Energy conservation measure and facility
1 37 technology infrastructure" means an employee training
1 38 program, facility alteration, or equipment to be used
1 39 in new construction that reduces energy costs and
1 40 includes, but is not limited to, any of the following:
1 41 a. Insulation of the facility structure or systems
1 42 within the facility.
1 43 b. Storm windows or doors, caulking or weather
1 44 stripping, multiple-glazed windows or doors, heat=
1 45 absorbing or heat-reflective glazed and coated window
1 46 or door systems, additional glazing, reductions in
1 47 glass area, or other window and door system
1 48 modifications that reduce energy consumption.
1 49 c. Automated or computerized energy control
1 50 systems including related software-required network
2 1 communication wiring, computer devices, wiring and
2 2 support services for building maintenance or delivery
2 3 of energy conservation services. Any cost for support
2 4 services that will continue beyond the length of the
2 5 contract shall be identified specifically in the
2 6 energy performance-based evaluation. Energy control
2 7 system technology infrastructure may also be used, as
2 8 applicable, for other public corporation technology
2 9 needs. Additional technology infrastructure
2 10 improvements may be implemented if the cost is
2 11 supported by the energy savings generated by other
2 12 energy conservation measures and facility technology
2 13 infrastructure.
2 14 d. Heating, ventilating, or air conditioning
2 15 system modifications or replacements.
2 16 e. Replacement or modification of lighting
2 17 fixtures to increase the energy efficiency of the
2 18 lighting system which, at a minimum, shall conform to
2 19 the applicable state or local building code.
2 20 f. Energy recovery systems.
2 21 g. Renewable energy systems, such as solar,
2 22 biomass, and wind.
2 23 h. Any measure not otherwise defined that produces
2 24 measurable energy cost savings or British thermal unit
2 25 reductions.

2 26 2. "Energy cost savings" means a measured
2 27 reduction in fuel, energy, or operation and
2 28 maintenance cost savings created from the
2 29 implementation of one or more energy conservation
2 30 measures and facility technology infrastructure when
2 31 compared with an established baseline for previous
2 32 fuel, energy, or operation and maintenance costs.
2 33 3. "Energy performance-based contract" means a
2 34 contract for the recommendation and implementation of
2 35 energy conservation measures and facility technology
2 36 infrastructure which includes, at a minimum, all of
2 37 the following:
2 38 a. The design and installation of equipment to
2 39 implement one or more energy conservation measures and
2 40 facility technology infrastructure, and, if
2 41 applicable, operation and maintenance of such
2 42 measures.
2 43 b. The amount of any actual annual energy and
2 44 operational cost savings. The amount shall be
2 45 guaranteed by the qualified provider and verified by a
2 46 professional engineer or registered architect
2 47 experienced in the field of energy conservation who is
2 48 not employed by or has contracted with the qualified
2 49 provider. The verification shall occur using a
2 50 process established by the department of natural
3 1 resources.
3 2 4. "Energy performance-based evaluation" means
3 3 performance of an energy audit, data collection, or
3 4 other related analyses preliminary to the undertaking
3 5 of energy conservation measures and facility
3 6 technology infrastructure, and maintenance of project
3 7 monitoring and data collection to verify
3 8 postinstallation energy consumption and energy-related
3 9 operating costs. The department of natural resources
3 10 shall establish guidelines that consider federal
3 11 energy management program guidelines.
3 12 5. "Maintenance cost savings" means auditable
3 13 operating expenses eliminated and future capital
3 14 replacement expenditures avoided as a result of new
3 15 equipment installed or services performed by the
3 16 qualified provider.
3 17 6. "Public corporation" means a school corporation
3 18 as described in chapters 273 and 274, a community
3 19 college as defined in chapter 260C, a public
3 20 university, city, county, or state agency.
3 21 7. "Qualified provider" means a business or person
3 22 that has been qualified by the department of natural
3 23 resources. The department of natural resources shall
3 24 adopt rules pursuant to chapter 17A to establish a
3 25 qualifications process. The process shall consider
3 26 accreditation by the national association of energy
3 27 service companies, certification by the association of
3 28 energy engineers, or professional licensure as an
3 29 engineer or registered architect in Iowa. A business
3 30 or person accredited by the national association of
3 31 energy service companies shall be qualified in Iowa.
3 32 Sec. _____. NEW SECTION. 297A.3 REQUESTS FOR
3 33 PROPOSALS EVALUATION.
3 34 1. Prior to entering into an energy performance=
3 35 based contract as provided in section 297A.4, a public
3 36 corporation shall announce a request for proposals. A
3 37 request for proposals shall be advertised for public
3 38 bidding and let publicly. The model request for
3 39 proposals format developed by the department of
3 40 natural resources shall be made available for use by
3 41 public corporations. The public corporation shall
3 42 administer the program, requesting innovative
3 43 solutions and proposals for energy conservation
3 44 measures and facility technology infrastructure.
3 45 Proposals submitted shall be sealed. If the model
3 46 request for proposals format is not used, the request
3 47 for proposals shall include, at a minimum, all of the
3 48 following:
3 49 a. Name and address of the public corporation.
3 50 b. Name, address, title, and telephone number of a
4 1 contact person for the public corporation.
4 2 c. Notice indicating that the public corporation
4 3 is requesting qualified providers to propose energy
4 4 conservation measures and facility technology
4 5 infrastructure to be provided pursuant to an energy
4 6 performance-based contract.

4 7 d. Date, time, and place where proposals must be
4 8 received.
4 9 e. Evaluation criteria for assessing the
4 10 proposals.
4 11 f. Any other stipulations and clarifications the
4 12 public corporation may require.

4 13 2. The public corporation shall evaluate any
4 14 sealed proposal from a qualified provider. Sealed
4 15 proposals shall be opened by a designated member or
4 16 employee of the governing body of the public
4 17 corporation at a public meeting during which the
4 18 contents of the proposals shall be announced. Each
4 19 person submitting a sealed proposal must receive at
4 20 least ten days' notice of the time and place of the
4 21 public meeting, published pursuant to the procedure
4 22 specified in this section. The public corporation
4 23 shall analyze each qualified provider's estimate of
4 24 the cost of design, engineering, installation,
4 25 maintenance, repairs, debt service, conversions to a
4 26 different energy or fuel source, and postinstallation
4 27 project monitoring, data collection, and reporting.
4 28 The evaluation shall include a detailed analysis of
4 29 whether the energy consumed or the operating costs, or
4 30 both, will be reduced. Selection of the qualified
4 31 provider shall, through either a request for proposals
4 32 process or a request for qualification process,
4 33 constitute selection of the best value based on life
4 34 cycle cost analysis of the component parts and systems
4 35 to the public corporation. The public corporation
4 36 shall enter into an energy performance-based contract.

4 37 Sec. ____ NEW SECTION. 297A.4 AWARD OF
4 38 GUARANTEED ENERGY COST SAVINGS CONTRACT.

4 39 1. A public corporation shall select a qualified
4 40 provider that best meets the needs of the public
4 41 corporation based on life cycle cost analysis. After
4 42 completing its evaluation of the proposals received
4 43 pursuant to section 297A.3, the public corporation
4 44 shall provide public notice of the meeting at which it
4 45 proposes to award an energy performance-based
4 46 contract. The notice shall contain the names of the
4 47 parties to the proposed contract and the purpose of
4 48 the contract. The public notice shall be published at
4 49 least ten days prior to the meeting, pursuant to the
4 50 procedure specified in section 297A.3. A public
5 1 corporation may enter into an energy performance-based
5 2 contract with a qualified provider if it finds, after
5 3 evaluating the proposal pursuant to section 297A.3,
5 4 that the total amount it would spend on the design,
5 5 implementation, financing and performance management
5 6 of the energy conservation measures and facility
5 7 technology infrastructure upgrades and modernization
5 8 measures recommended in the proposal would not exceed
5 9 the amount to be saved in either energy or operational
5 10 costs, or both, within a twenty-year period from the
5 11 date of installation or modification, based on life=
5 12 cycle costing calculations, if the recommendations in
5 13 the proposal are followed. Each individual
5 14 improvement must pay for itself within the useful life
5 15 of the equipment, as determined by the American
5 16 society of heating, refrigeration, and air
5 17 conditioning engineers.

5 18 2. A public corporation may enter into a financing
5 19 agreement as provided in sections 473.19, 473.20, and
5 20 473.20A, or may secure financing through a third party
5 21 for the purchase and installation of energy
5 22 conservation measures and facility technology
5 23 infrastructure upgrades and modernization measures.
5 24 Energy performance-based contracts may extend beyond
5 25 the fiscal year in which they become effective, and
5 26 may be automatically renewed annually for up to twenty
5 27 years.

5 28 3. A qualified provider shall be responsible for
5 29 the measurement and verification of the savings
5 30 generated by the energy conservation measures and
5 31 facility technology infrastructure upgrades and
5 32 modernization measures. The process to be used for
5 33 the measurement and verification shall follow the
5 34 guidelines of the federal energy management program.
5 35 A public corporation may have these savings verified
5 36 by a qualified independent third party on an annual
5 37 basis. The verification shall also include an annual

5 38 reconciliation of the guaranteed energy cost savings
5 39 until the project is repaid from energy savings. The
5 40 cost of this verification shall be a part of the
5 41 contract with the qualified provider. A business or
5 42 person accredited by the national association of
5 43 energy service companies shall be qualified in Iowa.
5 44 4. A selected qualified provider shall provide a
5 45 one hundred percent performance guarantee bond to the
5 46 public corporation for the installation and faithful
5 47 performance of the installed energy conservation
5 48 measures and facility technology infrastructure as
5 49 outlined in the energy performance-based contract.
5 50 5. A public corporation has the right to terminate
6 1 an energy performance-based contract at any time
6 2 provided that written notice to the qualified provider
6 3 is provided at least thirty days prior to termination.
6 4 All qualified providers shall include clear statements
6 5 and requirements regarding contract termination as
6 6 part of the contract documentation. The documentation
6 7 shall clearly state the options of the public
6 8 corporation to satisfy the contract early and include
6 9 all associated costs. The documentation shall also
6 10 state the rights of a public corporation under a
6 11 contract for terminating the contract due to
6 12 nonperformance, exercising performance bonds, and
6 13 shall list all costs and responsibilities for payment
6 14 of any remaining debt associated with energy and
6 15 operational savings projects already implemented. The
6 16 information and associated costs described in this
6 17 subsection shall be provided to a public corporation
6 18 before an energy performance-based contract is
6 19 approved.
6 20 6. An energy performance-based contract shall
6 21 include a written guarantee by a qualified provider
6 22 that the amount of any actual energy and operational
6 23 savings shall be guaranteed. The amount must also
6 24 meet or exceed the total annual contract payments,
6 25 including financing charges, made by the public
6 26 corporation over the life of the contract. A
6 27 qualified provider shall reimburse a public
6 28 corporation for any shortfall of guaranteed energy
6 29 cost savings projected in the contract. Actual
6 30 savings documentation shall be reconciled on an annual
6 31 basis as provided in the contract. Any savings
6 32 shortfall shall be made whole by the qualified
6 33 provider within sixty days. Excess documented and
6 34 mutually agreed upon savings may be carried over to
6 35 future years. A qualified provider shall provide the
6 36 public corporation with a one hundred percent
6 37 performance and payment bond for installation and
6 38 retrofit projects. A qualified provider shall
6 39 guarantee the savings for the length of the contract.
6 40 An energy performance-based contract may provide for
6 41 payments over a period of time, not to exceed twenty
6 42 years. Nothing in this chapter shall be construed to
6 43 prohibit local public corporations, school
6 44 corporations, or public universities from utilizing
6 45 savings created from energy conservation, in excess of
6 46 the amount needed to pay for the cost saving measures,
6 47 for discretionary budget operations including but not
6 48 limited to school instructional computer hardware,
6 49 software, technology training, upgrades, or other
6 50 similar uses.>
7 1 #2. By renumbering as necessary.
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